

Reply to John R. Prukop:

It is improper for Mr. Prukop to raise the dismissed forfeiture order case in this licensing case under Section 504(c) of the Communications Act, which provides as follows:

(c) In any case where the Commission issues a notice of apparent liability looking toward the imposition of a forfeiture under this Act, that fact shall not be used, in any other proceeding before the Commission, to the prejudice of the person to whom such notice was issued, unless (i) the forfeiture has been paid, or (ii) a court of competent jurisdiction has ordered payment of such forfeiture, and such order has become final.

Since no suit was ever filed to collect the forfeiture order, under Sec. 504(c) it is improper to use the fact of its issuance in this licensing proceeding.

However, since Mr. Prukop has already raised the subject of the forfeiture order, I respond that I do not recognize his characterization of same. The way I read the forfeiture order, it clearly says that because the Enforcement Bureau does not happen to like me, I am therefore going to be required to share the amateur frequencies with all other licensees, but they are not going to be required to share them with me; in other words, that the sharing requirement of Sec. 97.101(b) of Part 97 applies to me, but not to other stations. Such a legal double-standard represents a clear abuse of administrative discretion by the Enforcement Bureau, and no doubt constitutes the primary reason why the Department of Justice declined to accept the Bureau's referral of the forfeiture order. The forfeiture order was very poorly reasoned because, rather than properly using the forfeiture order procedure for enforcement purposes, former Enforcement Bureau Chief Travis Le Blanc attempted to use the procedure to establish enforcement policy.

Mr. Prukop further claims that some of my transmissions may have consisted of “music”, or may have been indecent, but I addressed both of these issues in my Petition for Review, and Mr. Prukop does not address or contradict those arguments.

Last, Mr. Prukop objects that I play recordings of my fellow amateurs on the air, but this kind of transmission is specifically permitted by Sec. 97.113(e) of Part 97 [i.e., the words “other than an amateur station”, which appear in the first sentence of said paragraph (e)].